

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ALABAMA – SOUTHERN DIVISION

In re:	CASE NO. 15-02075
BIRMINGHAM COAL & COKE COMPANY, INC.,	CHAPTER 11
Debtor.	JUDGE THOMAS B. BENNETT
<hr/>	
In re:	CASE NO. 15-02077
CAHABA CONTRACTING AND RECLAMATION, LLC,	CHAPTER 11
Debtor.	
<hr/>	
In re:	CASE NO. 15-02078
RAC MINING, LLC,	CHAPTER 11
Debtor.	
<hr/>	

**MOTION FOR ORDER UNDER BANKRUPTCY RULE 1015(B) DIRECTING JOINT
ADMINISTRATION OF CHAPTER 11 CASES**

COMES now, through undersigned counsel, the above-captioned Debtors and Debtors-in-Possession Birmingham Coal & Coke Company, Inc., Cahaba Conservation and Reclamation, LLC, and RAC Mining, LLC (collectively, the “Debtors”), who move for the entry of an order granting joint administration of their respective chapter 11 cases (this “Motion”). In support, the Debtors represent:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this Motion under 28 U.S.C. §§ 157 and 1334. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

{N3034909.1}

GENERAL BACKGROUND

2. On May 27, 2015 (the “Petition Date”), the Debtors filed for relief under chapter 11 of the Bankruptcy Code in this honorable court. The Debtors are operating their businesses and managing their properties as debtors-in-possession pursuant to Bankruptcy Code §§ 1107 and 1108. No trustee or examiner has been appointed, and no official committee of creditors or equity interest holders has been established in these chapter 11 cases (these “Cases”).

3. The Debtors collectively lease and mine coal at mines throughout Alabama.

RELIEF REQUESTED

4. By this motion, the Debtors request entry of an order authorizing joint administration of their chapter 11 cases for procedural purposes, with Birmingham Coal and Coke Co, Inc.’s (“BCC”) case as the lead case.

BASIS FOR RELIEF REQUESTED

5. Bankruptcy Code § 105 provides that “[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.”

6. Bankruptcy Rule 1015(b) provides, in relevant part, that: “[i]f... two or more petitions are pending in the same court by or against ... (4) a debtor and an affiliate, the court may order a joint administration of the estates”. The Debtors are “affiliate[s]” as that term is defined in Bankruptcy Code § 101(2). The Debtors have some common Board members. Further and more importantly, the operations of all the Debtors are interrelated and there is common management of all Debtors. Finally, the Debtors have many trade creditors in common, and Regions is the largest secured creditor of each.

7. The rights of the respective creditors of the Debtors will not be adversely affected by joint administration of these cases because this motion requests only administrative consolidation of the estates, and the Debtors are not by this Motion seeking substantive

consolidation. The Debtors request that a single docket sheet be maintained for all matters occurring in these cases, and that they be authorized, but not required, to use combined service lists and notices to creditors. Notwithstanding the entry of an order granting the relief requested by this Motion, separate claims registers shall be maintained and each creditor shall file a proof of claim against a particular Debtor's estate. Thus, the rights of all creditors will be enhanced by the reduced costs resulting from joint administration. This Court also will be relieved of the burden of entering duplicative orders and maintaining duplicative files. Finally, supervision of the administrative aspects of these chapter 11 cases by the Bankruptcy Administrator will be simplified.

8. By reason of the foregoing, the interests of the Debtors and their creditors would be best served by joint administration of the above-captioned cases. Accordingly, the Debtors request that the caption of their cases be modified to reflect the joint administration of the chapter 11 cases, as follows:

UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF ALABAMA – SOUTHERN DIVISION

In re:

BIRMINGHAM COAL & COKE,
COMPANY, INC.,

Debtor.

CASE NO. 15-02075

(Jointly Administered with Case Nos. 15-02077
and 15-02078)

CHAPTER 11

9. The Debtors also request that the Clerk of Court enter the following notation on the docket of each of the Debtors' cases to reflect the administration of the cases:

An order has been entered in this case directing the procedural consolidation and joint administration of the chapter 11 cases of Birmingham Coal & Coke Company, Inc. (15-02075), Cahaba Conservation and Reclamation, LLC (15-02077) and RAC Mining, LLC (15-02078), and the docket for Birmingham Coal & Coke

Company, Inc. should be consulted for all matters affecting these jointly administered cases.

10. Notice of this Motion has been given to the following parties or, in lieu thereof, to their counsel, if known: (a) the Office of the Bankruptcy Administrator for the United States Bankruptcy Court for the Northern District of Alabama; (b) counsel to Regions Bank, Debtors' pre-petition lender; (c) the Debtors' twenty (20) largest unsecured creditors. Considering the nature of the relief requested herein, the Debtors submits that no other or further notice is necessary.

WHEREFORE, each of the Debtors request that the Court enter an order, substantially in the form submitted herewith, (a) authorizing the joint administration of the Birmingham Coal & Coke Company, Inc., Cahaba Conservation & Reclamation, LLC and RAC Mining, LLC Chapter 11 cases under the case number assigned to Birmingham Coal & Coke Company, Inc.; and (b) granting such other relief as the Court deems just and proper.

/s/ C. Ellis Brazeal III
C. Ellis Brazeal III

OF COUNSEL:

JONES WALKER LLP
1819 5th Avenue North
Suite 1100
Birmingham, AL 35203
(205) 244-5237 Telephone
(204) 244-5400 Facsimile
ebrazeal@joneswalker.com

Mark A. Mintz (LA Bar No. 31878)¹
Laura F. Ashley (LA Bar No. 32820)²
JONES WALKER LLP
201 St. Charles Ave., Suite 5100
New Orleans, LA 70170
(504) 582-8000 Telephone
(504) 582-8011 Facsimile
mmintz@joneswalker.com
lashley@joneswalker.com
Proposed Attorneys for Debtors

¹ Motion for pro hac vice admission will be filed shortly.

² Motion for pro hac vice admission will be filed shortly.